



January 26, 2017

Senator Sara Gelsler, Chair
Senator Alan Olsen, Vice-Chair
Senators Dembrow, Kruse and Monnes Anderson
Oregon Senate Committee on Human Services

Dear Senators,

I appreciate the opportunity to provide my thoughts on SB 275. As you know, this bill would amend ORS 192.576, a law passed in the 2015 Legislature to make one copy of medical records free to Oregonians appealing their claims for Social Security disability benefits.

Since passage of that law, many indigent Oregonians who otherwise would not have been able to afford to provide their medical records to the Social Security Administration (SSA) as they are required to do if they are appealing, have been able to pursue these claims and in many cases, to succeed in being approved. The changes in the lives of these Oregonians as a result of receiving benefits are huge: not only do they receive monthly financial support that lessens or eliminates their reliance on state benefits, approval also gives them access to retraining programs and actual jobs they can do despite their disabilities, without risking loss of their benefits.

In 2015, when this Committee considered passage of SB 710, several issues were raised. Some of these issues are addressed again in SB 275. Of course, if SB 275 does not change existing law, it is unnecessary. Below I discuss each issue, how it was resolved, and whether events since passage warrant amendment.

Discussion:

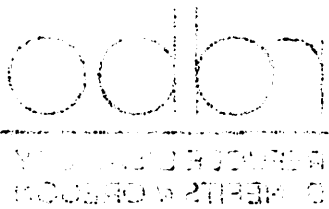
- 1) Should the State of Oregon join eighteen other states that provide a right to free medical records for disability appellants?

There was no serious disagreement in 2015 about the value of doing so and there appears to be no disagreement now.

- 2) Assuming that Oregon should provide a right to free medical records, what limits should be placed on that right?



- a) In 2015, the Committee received testimony that providing unlimited numbers of free records would pose a hardship on providers or copying services (“covered entity”). As a result, ORS 192.576 limited free records to one copy to be provided by a covered entity, in paper or electronic copy (at the choice of the individual). In addition, a limit was added to the original draft bill that the individual must have been appealing a denial. This was sensible, as SSA is responsible for obtaining records at the time of application but the burden switches to the applicant after denial.
- (b) SB 275 would allow not only the individual but as well, the individual’s personal representative to choose between paper and electronic format. *This change in existing law is unnecessary.* I am not aware of any situation in which there was a disagreement between an individual and his personal representative on whether the records were provided as paper or as electronic records. Moreover, federal law required all public and private healthcare providers, among others, to adopt and demonstrate meaningful use of electronic medical records and increasingly, that is the practice.
- (c) SB 275 adds situations in which the covered entity may deny a request. These include:
1. When the covered entity has already provided a copy.
This addition to existing law is unnecessary. The law already limits the number of times that a copy must be provided to one time.
 2. When the request is made by someone other than the individual or the personal representative, without valid authorization.
This addition to existing law is unnecessary. The law already limits the requestors to the individual or his personal representative.
- (d) SB 275 adds situations in which a covered entity may charge a fee for records. These include:
1. When the request for copies is made by a person other than the individual or personal representative.
This addition to existing law is unnecessary. ORS 192.576 already limits those entitled to a free copy to the individual or personal representative.
 2. When the covered entity has already provided a free copy.
This addition to existing law is unnecessary. ORS 192.576 already limits free copies to one.



(a) If 2018, the Committee receives testimony that providing unedited copies of these records would pose a hardship or providers or providers ("covered entity") As a result, OIGS 19157E limited the records to one copy to be provided by a covered entity, in paper or electronic copy (at the discretion of the individual) and that the records were added to the original health plan that the individual must have been applying a device. This was similar to 2018 as responsible for providing records at the time of application but the burden switches to the applicant after denial.

(b) If 2018, the Committee will not only the individual but also the individual's personal representative in the event of a denial and electronic format was changed to allow for a request for a copy of the records. In addition, in which there was a disagreement between an individual and his personal representative on whether the records were provided as paper or as electronic records. A covered entity must provide all such records to the individual upon request. A covered entity must also provide records to the individual upon request. A covered entity must also provide records to the individual upon request.

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1. When the covered entity has already provided a copy of the records to existing law, a request for a copy of the records must be provided to one party.
2. When the request is made by someone other than the individual or the personal representative, the law already provides the individual or the personal representative with a copy of the records.

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3. When the request for a copy of the records is made by a person other than the individual or personal representative, the law already provides the individual or the personal representative with a copy of the records.
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Conclusion:

SB 275 is duplicative of existing provisions in the law. The only actual change proposed in SB 275 is the election between paper and electronic copies, expanding this choice to the personal representative.

SB 275 does not raise the question of who is a “personal representative”. There was discussion about this in 2015; it was made clear then that it did not include the individual’s attorney, despite testimony from Oregon Health Sciences University that attorney requests are generally easier to respond to because attorneys understand the law better than claimants.

Sincerely,

Cheryl Coon
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Refugee Disability Benefits Oregon